

Message Text

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R 212056Z AUG 75
FM SECSTATE WASHDC
TO AMEMBASSY THE HAGUE

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E.O. 11652: N/A

TAGS: PORG, EAIR, ICAO

SUBJECT: DIPLOMATIC CONFERENCE ON AIR LAW

REF: (A) STATE 186136; (B) HAGUE 4124; (C) HAGUE 3493

1. SUMMARY: DEPT. APPRECIATES OFFER OF EMBASSY IN REFTEL
(B) PARA 2 TO RENEW EFFORT TO GAIN GON SUPPORT AND CO-
SPONSORSHIP OF USG PROPOSAL IN REFTEL (A). DEPT. SUGGESTS
FOLLOWING POINTS BE RAISED WITH GON. END SUMMARY.

2. THE PURPOSE OF US PROPOSAL WAS TO MODIFY AGENDA TO
CONSIDER AMENDMENT ONLY OF THE CARGO PROVISIONS OF
GUATEMALA. THE USG DOES NOT INTEND AND WILL OPPOSE ANY
EFFORT TO RECONSIDER SUBSTANTIVE PROVISIONS OF GUATEMALA
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RELATING TO PASSENGERS AND BAGGAGE. WE DO NOT FEEL US

PROPOSAL IN THIS RESPECT IS QUOTE DANGEROUS UNQUOTE IN-
ASMUCH AS IT IS NOT INTENDED TO CREATE NEW SUBSTANTIVE
AREAS FOR CONFERENCE CONSIDERATION- BUT ONLY TO APPLY
CONFERENCE DECISION ON HAGUE PROTOCOL CARGO PROVISIONS
TO GUATEMALA CARGO PROVISIONS (WHICH ARE THE SAME AS
HAGUE CARGO PROVISIONS) AS WELL.

3. WE DO NOT FULLY UNDERSTAND GON RESISTANCE TO US
PROPOSAL. WE BELIEVE US PROPOSAL IS DESIGNED TO DEAL
WITH THE VERY PROBLEM OF CONFLICT NOTED IN REFTEL (B)
PARA 3 AND WOULD, THEREBY, MEET CONCERNS OF GON. THE
GUATEMALA PROTOCOL REPEATS THE CARGO PROVISIONS OF THE
HAGUE. IF A NEW CARGO PROTOCOL IS ADOPTED IN MONTREAL,
AND GUATEMALA CARGO PROVISIONS REMAIN UNCHANGED, A STATE
WHICH BECOMES A PARTY TO BOTH GUATEMALA AND THE NEW CARGO
PROTOCOL WOULD HAVE TWO CONFLICTING SETS OF RULES TO APPLY
INTERNATIONALLY. ONE SET WOULD APPLY BETWEEN IT AND
OTHER STATES PARTY TO THE NEW INSTRUMENT. ANOTHER SET OF
RULES (HAGUE CARGO PROVISIONS CONTAINED IN GUATEMALA)
WOULD APPLY BETWEEN IT AND OTHER PARTIES TO GUATEMALA.
THE US PROPOSAL CONTEMPLATES A MODIFICATION OF THE
GUATEMALA CARGO PROVISIONS TO RESOLVE THIS CONFLICT.
ONE SOLUTION WOULD BE AN ADDITIONAL FINAL CLAUSE IN
GUATEMALA ALLOWING A STATE TO SUBSTITUTE THE MONTREAL
CARGO RULES FOR THE GUATEMALA CARGO RULES. ANOTHER
POSSIBILITY WOULD BE COMPLETE DELETION FROM GUATEMALA
OF ITS CARGO RULES. US PROPOSAL IS LIMITED TO TWO
POINTS: PROCEDURAL, TO ASSURE AGENDA COVERS GUATEMALA
CARGO PROVISIONS; AND SUBSTANTIVE, TO APPLY CONFERENCE
DECISION ON HAGUE PROTOCOL CARGO PROVISIONS TO GUATEMALA
CARGO PROVISIONS AS WELL. IT MAKES A SUGGESTION, NOT A
FIRM PROPOSAL, AS TO THE PARTICULAR FORM OF INSTRUMENT.
WISH TO REPEAT US PAPER CONTAINS A SUGGESTION FOR A NEW
INSTRUMENT, BUT THIS IS NOT A PROPOSAL AS SUCH AND WE ARE
NOT WEDDED TO THAT SOLUTION ALONE. BUT TWO POINTS WE
PROPOSE ARE ESSENTIAL IF CONFERENCE IS TO DEAL WITH
GUATEMALA CARGO PROVISIONS AT ALL.

4. THE USG HOPES THE GON WILL RECONSIDER ITS DECISION.
WE HAVE WORKED CLOSELY WITH GON IN PREPARATORY MEETINGS
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ON SUBSTANTIVE ISSUES. THE GON HAS BEEN AN ACTIVE AND
EFFECTIVE PARTICIPANT IN THESE MEETINGS AND ITS SUPPORT
AND/OR CO-SPONSORSHIP OF US PROPOSAL WOULD CERTAINLY
CARRY WEIGHT WITH OTHER DELEGATIONS. THE US DEL WOULD
WELCOME OPPORTUNITY TO DISCUSS PROPOSAL WITH GON IN
MONTREAL AT EARLIEST POSSIBLE TIME. US DEL CAN BE CON-
TACTED THROUGH OFFICIAL US REPRESENTATIVE TO ICAO. WE
HOPE EMBASSY CAN CONVINCE GON AT LEAST TO KEEP OPEN

MIND ON PROPOSAL UNTIL US DEL CAN CONFER MORE FULLY WITH
THEM AT MONTREAL.

5. SEE CABLE TO PARIS THIS SUBJECT INFO COPY TO THE HAGUE
SENT TODAY FOR ADDITIONAL BACKGROUND.

6. US HAS SUBMITTED PROPOSAL TO ICAO, AND WE WILL CONTINUE
TO SEEK CO-SPONSORS RIGHT UP TO TIME OF CONSIDERATION OF
PROPOSAL AT CONFERENCE. MAW

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